

LEGAL UPDATES

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The End of the Government Shutdown Starts a 365-day Countdown for the Hemp Industry

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On November 12, 2025, the congressional package to reopen the government was approved by both legislative chambers and has been signed into law by the president. While most of the nation breathes a collective sigh of relief, the hemp industry is quickly formulating a strategy to fight changes contained in one of the three full-year spending bills that will be effective 365 days from signing.

What Was Included in the Reopening Package with Respect to Hemp?

Since June of 2025, industry efforts have targeted the removal of language championed by Representative Andy Harris contained in a FY2026 House Agriculture Appropriations Bill. The language would have excluded from the legal definition of “hemp” any products containing synthetic cannabinoids or a quantifiable amount of THC and any other intoxicating cannabinoids. Similar language in the Senate companion bill had been removed, but when the Senate released the text of the bills to be considered on November 9, they included alternative language regarding hemp. The bills ultimately passed with this alternative language as part of the government reopening. One important concession included with respect to hemp, was that the language will not be effective for 365 days. However, at that time, the following will be removed from the legal definition of “hemp” and recriminalized at the federal level as a result:

Intermediate or final form products containing any synthetic or artificially derived cannabinoids

Final form products containing more than .4mg of total THC (including tetrahydrocannabinolic acid) combined with any other cannabinoids determined by the FDA to have a similar effect as THC per “container”

Intermediate products containing more than .3% of total THC (including tetrahydrocannabinolic acid) combined with any other cannabinoids to be determined by the FDA to have a similar effect as THC

It is important to note that the language includes a mandate to the FDA to publish the following within 90 days of enactment:

A list of cannabinoids known to be capable of being naturally produced by a Cannabis sativa L. plant as reflected in peer reviewed literature;

A list of tetrahydrocannabinol class cannabinoids known to the agency to be naturally occurring in the plant;

A list of all other known cannabinoids with similar effects to, or marketed to have similar effects to, tetrahydrocannabinol class cannabinoids; and

Additional information and specificity about the term “container.”

These definitive lists will be determinative in the application of the limits set forth in the bill, however, could have far reaching implications for future cannabis and hemp policy.

What Is the Expected Impact?

This language, once effective, would reclassify products that are widely available in many states as marijuana, a Schedule I Controlled Substance, and have a sweeping impact on the entire hemp industry, including farmers and CBD producers, in the following ways:

Existing State Sanctioned Hemp Framework

States that have regulated consumable hemp-derived THC products would suddenly find these programs federally illegal. Currently, some of these states—like Alabama, Tennessee, and Kentucky—are working to implement recently enacted legislation or regulatory changes while other states—like Ohio and South Carolina—are now considering new regulations. It is unclear if these states will proceed with these programs or make changes to them to conform to federal prohibitions. It is possible the systems would stay in place and allow for entirely intrastate markets (similar to the state-legal marijuana industry), though intermediate products potentially would still be able to be transported on an interstate level.

CBD Production and Farming

This language has been touted as preserving the CBD and hemp farming components of the industry, which is not entirely accurate. Many full-spectrum CBD products contain more than .4mg of THC and would no longer be legally available. Additionally, in the production of any kind of CBD product, the extraction process from plant material removes all moisture and concentrates present cannabinoids, including THC. The resulting extract will have a higher percentage of THC than the raw biomass, and further processing can also exacerbate that. It would be extremely difficult, if not impossible, for producers to process CBD products or for farmers to consistently grow hemp to withstand this process in compliance with the restrictions for intermediate products.

Economic Impact

It is estimated that most, if not all, of the \$28.4 billion U.S. hemp industry would be destroyed by these changes. As a result, there would be extensive job loss as well as state sales tax revenue loss. In Minnesota alone, hemp-derived products generated \$11.5 million in sales tax revenue.

What Will the Next 365 Days Look Like for Hemp?

In the weeks leading up to the end of the government shutdown, various groups sent letters and communicated to congressional members for and against a ban of hemp products, with conflicting opinions on the safety and nature of these products. Over the next 365 days, the debate over how to classify and regulate these products is set to exponentially intensify from stakeholders with different perspectives. Reaching regulatory clarity for hemp-derived products will involve increased debate on key issues including: what agency should be responsible for enforcement, if hemp derived products should be included in a three tier system, if synthetic or artificially derived cannabinoids should be permitted, what an appropriate THC (including tetrahydrocannabinolic acid) mg cap is, what testing should be required, what decisions should be left to the states, and many other critical variables. While the legislative process grapples with these issues, the industry will likely face significant uncertainty in business transactions, investments, and potentially banking as some organizations will treat the deferred timeline as a forgone conclusion.

Contact Us

Husch Blackwell attorneys are skilled at helping our clients navigate their most complex challenges. Our team has developed a unique set of tools to support the hemp and cannabis industries, and we continue to monitor changes nationwide. If you have questions about these changes, reach out to Alyssa Samuel, Jeff O'Brien, or your Husch Blackwell attorney.